the loan ticket, while it was expressly declared that contracts were invalid if more than the legal rate of interest was charged, still the statute is to be construed as a whole,[4] and furthermore all circumstances leading up to the passage of the act, the evil existing, the remedy desired, and all other factors going to show the legislative intention can be properly taken into account in construing the statute.[5] There has been a great deal of agitation against "loan sharks" in recent years and a number of statutes have been passed regulating the business of "personal property brokers", as well as pawnbrokers, to prevent the exploitation of the needy and improvident by these persons. Such statutes have been upheld, where general in their terms, as proper police measures.[6] The act of 1909, as amended in 1911, was upheld in Eaker v. Bryant,[7] on the ground that the legislature had grounds for believing that these persons were guilty of abuses not found among other professional money lenders, or among persons making occasional loans on even this class of securities. The classification made was held to be reasonable, and the law applying equally to all persons concerned, it was said to be no violation of any constitutional right. The court considered that the legislature intended to place these persons on the same basis as pawnbrokers, who have been subject to regulation for a long time. It has been held in this state that a pawnbroker's contracts are void if he fails to comply with the laws and ordinances regulating his business.[8] In view of these facts would not the court have been justified in construing the act of 1909 to render void all contracts made without complying with its provisions? The courts are always reluctant to adopt a construction which would impose a forfeiture but it would seem that this would be the most efficient way to prevent evasion of such an act as this.

J. S. M., Jr.

WILLS: DEED OF TRUST OR TESTAMENTARY INSTRUMENT.—For a man to eat his cake and have it too, has always seemed to be a feat impossible of accomplishment. But that a person can bring this about if he only take care that the cake be properly labeled seems to be the view taken by the California Supreme

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[4] Sutherland, Statutory Construction, § 240.

[5] Sutherland, Statutory Construction, § 292; Holy Trinity Church v. United States (1892), 143 U. S. 457, 36 L. Ed. 226, 12 Sup. Ct. Rep. 511.

[6] Sanning v. Cincinnati (1909), 81 Ohio St. 142, 90 N. E. 125, 25 L. R. A. (N. S.) 686. See Norris v. City of Lincoln (1913), 93 Neb. 658, 142 N. W. 114, Ann. Cas., 1914B, 1194, as to validity of license taxes on money lenders taking chattel mortgage security.

[7] (Feb. 25, 1914), 18 Cal. App. Dec. 318, 140 Pac. 310. The decision in this case was followed by the District Court of Appeal in Ex parte Stephan (Nov. 19, 1914), now pending before the Supreme Court on petition for habeas corpus.

[8] Levinson v. Boas (1907), 150 Cal. 185, 88 Pac. 825, 12 L. R. A. (N. S.) 575, n.

Court in a case[1] formerly noted in this Review.[2] There, a grant of certain real property, subject to the exceptions and reservations mentioned in the opening clause of the deed, was held to be a deed passing an interest *in praesenti* and not a testamentary instrument. The reservations included the exclusive possession and use in the grantor's own right of the income from the lots conveyed during the life of the grantor, the right to revoke the deed, and the right to sell any of the property. The provision in the instrument that the revocation should, if made, be in writing, duly acknowledged and recorded, evidently added much weight to the argument which caused the court in bank to reverse the department decision on rehearing. In answer to the objection that under the English common law there could be no power of revocation reserved in a deed, the court called attention to the changed conditions under which land is transferred at the present time. With the introduction of the system of recording instruments, the name of the owner of the land is now much more accessible than it was formerly, and if a power of revocation has been reserved in a deed, it will appear on the records. The test as to what an instrument is, was brought out in the quotation from Nichols v. Emery[3] to the effect that the fact of the passing of a present interest makes the instrument a deed, while in order that it be a will, it must operate only upon and by reason of the death of the maker.

However, that all the advantages which a will gives in the disposition of one's property at the time of death do not accompany the method of disposition by deed is seen from the decision of *Niccolls et al. v. Niccolls et al.*[4] where an attempt to dispose of all the "property of every kind and nature, both real and personal, that we may have and own at the time of the death of the said Robert Niccolls", by transferring it, thus described, to trustees, was held to be invalid as a conveyance in trust. The chief objection urged was that from the wording it appeared that the property was to pass only at the time of the death of the trustor, Robert Niccolls. That this objection alone should not have vitiated the deed may be seen from a case in Vermont,[5] where words much more resounding in their testamentary tone, viz: "the [grantees] are not to have any right or title whatever to the above described premises as long as we or either of us live; and the above deed is not to be binding upon us or either of us if in any case we should want or need to sell a part or all of said real estate in order to maintain us, and the above deed is to be null

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[1] Tennant v. John Tennant Memorial Home (April 1, 1914), 167 Cal. 570, 140 Pac. 242.

[2] Tennant v. John Tennant Memorial Home (1912), 44 Cal. Dec. 690. See comment, 1 Cal. Law Rev. 275.

[3] (1895), 109 Cal. 323, 41 Pac. 1089, 50 Am. St. Rep. 43.

[4] (Oct. 2, 1914), 48 Cal. Dec. 287, 143 Pac. 712.

[5] Blanchard v. Morey (1883), 56 Vt. 170.

and void in such case and we are to have the entire control of the above premises during our natural lives", were held not inconsistent with a good grant *in praesenti,* retaining a reservation of a right of revocation and sale, and a life estate to the grantors. Suppose, in the principal case the wording had been all our "property of every kind and nature, both real and personal, *that we now have, and* that we may have and own at the time of the death of the said Robert Niccolls." What, in effect, would have been the difference between such a grant and that made in the Tennant case, including in the deed the reservations stated above? The objection that no present interest passed would then be answered. As to the matter of indefiniteness of description, it has been held in California that the words, "all lands and real estate belonging to the said party of the first part wherever the same may be situated"[6] are sufficient to pass real property. But would the court allow after-acquired title to property described in such a vague manner to pass by deed on the theory of estoppel by deed?[7] Apparently not, because there would be no subject matter to which the interest of the grantee could attach, since the property had neither been described nor located by the grantor. Consequently it seems that real estate can be disposed of by deed or trust deed, and a life interest in the grantor as well as the power to revoke the grant and sell the property reserved, only if the property be specifically described.

G. H. G.

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[6] Pettigrew v. Dobbelaar (1883), 63 Cal. 396
[7] Cal. Civ. Code, § 1106.